

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SYSMEX CORPORATION; and SYSMEX
AMERICA, INC.,

Plaintiffs,

v.

BECKMAN COULTER, INC.,

Defendant.

CIVIL ACTION NO. 19-1642-JFB-CJB

MEMORANDUM AND ORDER

This matter is before the Court on the Oral Report and Recommendation of the magistrate judge. D.I. 546. The Report and Recommendation address the portion of Plaintiffs' *Daubert* motion seeking to exclude certain opinion of Defendant's damages expert, Mitchell Rosen, D.I. 405. Neither party has objected to the magistrate judge's report and recommendation.

The standard of review is governed by [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [Federal Rule of Civil Procedure 72\(b\)](#). The district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made" and "may also receive further evidence or recommit the matter to the magistrate judge with instructions." [28 U.S.C. § 636\(b\)\(1\)\(C\)](#); see also [Fed. R. Civ. P. 72\(b\)](#).

The Supreme Court has construed the statutory grant of authority conferred on magistrate judges under [28 U.S.C. § 636](#) to mean that nondispositive pretrial matters are governed by § 636(b)(1)(A) and dispositive matters are covered by § 636(b)(1)(B). [Gomez v. United States](#), 490 U.S. 858, 873–74 (1989); see also [Fed. R. Civ. P. 72\(a\)](#).

Under subparagraph (B), a district court may refer a dispositive motion to a magistrate judge “to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition.” [28 U.S.C. § 636\(b\)\(1\)\(B\)](#); see [EEOC v. City of Long Branch, 866 F.3d 93, 99–100 \(3d Cir. 2017\)](#). The product of a magistrate judge, following a referral of a dispositive matter, is often called a “report and recommendation.” [Id.](#) “Parties ‘may serve and file specific written objections to the proposed findings and recommendations’” [Id.](#) (quoting [Fed. R. Civ. P. 72\(b\)\(2\)](#)).

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” [EEOC, 866 F.3d at 99](#) (quoting 28 U.S.C. § 636(b)(1)).

The Court has carefully reviewed the report and recommendations and finds the magistrate judge is correct as a matter of fact and law. The Court finds the determinations are not clearly erroneous. Accordingly, the Court will adopt the report and recommendation of the magistrate judge.

THEREFORE, IT IS ORDERED THAT the oral report and recommendation of the magistrate judge, D.I. 546, is adopted in its entirety.

Dated this 14th day of June, 2022.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge